

DOMESTIC RELATIONS COMMITTEE

State Courts Building
1501 W. Washington
Conference Room 345 A/B
Phoenix, AZ
Meeting Minutes
October 15, 2010

MEMBERS PRESENT:

Honorable Linda Gray
Honorable Steve Court
Theresa Barrett
Sidney Buckman
Laura Cabanillas - *telephonic*
Daniel Cartagena - *telephonic*
Honorable Sharon Douglas - *telephonic*
Todd Franks
Jack Gibson
Grace Hawkins
Danette Hendry

Honorable Jeanne Hicks - *telephonic*
Jeffery G. Hynes - *telephonic*
Ella Maley
Patti O'Berry
Donnalee Sarda
Russell Smoldon
Honorable Thomas Wing
Steve Wolfson
Brian Yee

MEMBERS ABSENT:

Honorable Edward Ableser
Honorable Andy Biggs
William Fabricius
David Horowitz

Honorable Leah Landrum Taylor
Honorable Rebecca Rios
George Salaz
David Weinstock

GUESTS:

Kendra Leiby

Sheri Fetzer – IFC Coordinator

STAFF:

Kathy Sekardi
Tama Reily
Gina Kash
Amber O'Dell
Sarah Wharton

Administrative Office of the Courts
Administrative Office of the Courts
Arizona House of Representatives
Arizona State Senate
Arizona State Senate

CALL TO ORDER

Without a quorum present, the October 15, 2010, meeting of the Domestic Relations Committee (DRC) was called to order at 10:00 a.m. by Senator Linda Gray, Co-Chair.

ANNOUNCEMENTS

Senator Gray welcomed new member, Honorable Jeanne Hicks, Clerk of the Superior Court in Yavapai County.

Introductions were made around the room and Judge Wing noted he will be retiring and anticipates his last meeting as a member of the DRC will be in December.

COCONINO COUNTY INTEGRATED FAMILY COURT UPDATE *(Item taken out of order)*

Ms. Sheri Fetzer, Integrated Family Court (IFC) Coordinator presented a report on the IFC program in Coconino County. She discussed the integrated philosophy of the IFC, its scope, and the many services provided. She also related the successes of its various services and shared testimonials received from individuals who have benefited from the IFC's approach to family matters. In addition, Ms. Fetzer shared budget facts and funding challenges, and described various volunteer services that benefit the program, such as pro bono attorney services.

Ms. Ellen Seaborne provided additional details regarding the history of the IFC. She revealed how the IFC Workgroup endeavored to develop the IFC pilot program in 2002 and the various challenges faced to obtain funding. Ms. Seaborne elaborated on the different types of outcomes that are achieved under the IFC model compared to the outcomes prior to the formation of the IFC. Further, she spoke of the many attorneys in Coconino County who contribute greatly to the success of the IFC by volunteering their services in the interest of what is best for children and in support of the IFC.

Mr. Russell Smolden inquired about the 19 percent of Orders of Protection said to be involved in the IFC's cases. Ms. Seaborne explained that at times a protective order may be issued early in a case or may have been in place prior to transferring over to the IFC, and these cases could create the appearance of a high number of protective orders. Mr. Smolden went on to praise the work and success of the IFC and encouraged its progression to other counties.

Senator Gray thanked Ms. Seaborne for all of the work she has invested in the IFC project and the positive results that are being observed. She also praised the IFC for its model program, citing as one example the impressive reduction in number of evidentiary hearings and trials, which decreased from 42 percent for pre-IFC cases to less than 4 percent in 2010 IFC cases. Senator Gray emphasized the achievements of the IFC benefiting not only families and the children of divorce, but also the tremendous advantage to the courts.

APPROVAL OF DRAFT MEETING MINUTES

With a quorum now present, the draft minutes of the July 23, 2010, meeting of the DRC were presented for approval.

MOTION:	To approve the July 23, 2010 DRC draft meeting minutes as presented.
SECOND:	Motion seconded
VOTE:	Approved unanimously

SUBSTANTIVE LAW/COURT PROCEDURES WORKGROUP UPDATE

▪ **AD-HOC CUSTODY WORKGROUP UPDATE**

In the absence of Dr. Bill Fabricius, Chair of the Ad-Hoc Custody Workgroup, Workgroup member, Ms. Grace Hawkins, reported on the progress of the workgroup's efforts to review and recommend changes to A.R.S. § 25-403: custody; best interests of the child. Ms. Hawkins reviewed the Interim Report of the workgroup which gave a brief recap of the genesis and formation of the workgroup as an ad-hoc task group within the Substantive Law Workgroup. She also detailed the workgroup's goals and planned approach, and how the diverse composition and classification of its members evolved. Ms. Hawkins explained that the diverse make-up of the group is expected to produce the best outcome by offering a multi-perspective view in this examination of the custody statute. She reported some of the statute issues identified thus far, and the sheer breadth and complexity of the task before them necessitates more time than originally granted for this project. Thus, the workgroup is requesting that the DRC extend the timeframe for the workgroup to complete its charge.

MOTION: To charge the Ad-Hoc Custody Workgroup with presenting final recommendations for improvements to Arizona Revised Statutes, Title 25, Chapter 4; Child Custody to DRC in October 2011.

SECOND: Motion seconded

VOTE: Approved unanimously

Ms. Hawkins also informed members of the new Ad-Hoc Custody Workgroup website: <http://www.azcourts.gov/cscommittees/AdHocCustodyWorkgroup.aspx>, where DRC members can follow the workgroup's progress, find meeting information, documents, and minutes.

▪ **RELOCATION WORKGROUP UPDATE**

Mr. Wolfson updated the committee on the workgroup's review of the relocation language in A.R.S. § 25-408. He noted they are specifically focused on the standard for the application of the relocation statute which involves a move out of state, or more than 100 miles from the current residence, and evaluating whether that standard is still relevant in current times. The workgroup concluded that the 100-mile rule is no longer relevant and has drafted new language. Mr. Wolfson noted their revisions were made with two main issues in mind; first, recognizing there are procedural differences among the counties which could impact how the rule is applied, second, there are concerns that certain cases will amplify issues, or seek to prevent relocations from occurring. These concerns were taken into account in the revisions presented. The workgroup requested feedback and/or suggestions from the DRC. Their plan is to present the final draft proposal at the December DRC meeting.

Senator Gray inquired whether military deployments were considered and questioned what the filing fees are for exemptions. Hon. Hicks noted that the current statewide fee is \$81.00, however, some counties have additional fees, or surcharges, on top of the basic fee. Mr. Smolden mentioned a phenomenon sometimes referred to as ‘the creep’ meaning that a parent can “creep” across the state by moving short distances several times over a period of a few years, but never more than 100 miles at a time. He expressed concern that the distance can sometimes escape the notice of the court and wants to be sure the revised statute addresses this issue. Judge Wing observed that paragraph (D) mentions a “written parenting time plan” which he believes seems vague. He suggested it should state clearly “*court ordered written parenting plan*” Ms. Seaborne replied it was their intention to have that language included and will be corrected in the next version. Mr. Franks offered some specific language suggestions to clarify some of these issues being discussed. He also encouraged specificity for “*means of notice*”, and to define certain actions as “*presumptive notice*”. Mr. Wolfson recognized the need to provide clarity and stated the workgroup would likely seek advisement of the State Bar Family Law Practice and Procedure Committee on some of the issues raised today.

GOOD OF THE ORDER/CALL TO THE PUBLIC

No public comments offered.

The meeting adjourned at 11:34 a.m.

NEXT MEETING

Friday, December 3, 2010
Arizona State Courts Building
Conference Room 119 A/B
1501 W. Washington
Phoenix, Az 85007